

United States District Court

for the
Western District of New York

In the Matter of the Search of

(Briefly describe the property to be searched or identify the person by name and address.)

A parcel addressed to **"HC 01 box 3102 Loiza PR Jose L Fuente"** and bears a return address of **"316 Cornwall Ave Buffalo NY 14201"**. The Express Mail parcel bears USPS tracking number **EK361386705US**, and is a white in color USPS Priority Mail cardboard box approximately **12x12x 5.5"**, and weighing approximately **4 lbs.** The mailing cost \$60.40 and was expected delivery of March 15, 2019.

Case No. 19-mj-1021

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property *(identify the person or describe the property to be searched and give its location)*:

A parcel addressed to **"HC 01 box 3102 Loiza PR Jose L Fuente"** and bears a return address of **"316 Cornwall Ave Buffalo NY 14201"**. The Express Mail parcel bears USPS tracking number **EK361386705US**, and is a white in color USPS Priority Mail cardboard box approximately **12x12x 5.5"**, and weighing approximately **4 lbs.** The mailing cost \$60.40 and was expected delivery of March 15, 2019.

located in the Western District of New York, there is now concealed *(identify the person or describe the property to be seized)*: controlled substances, packaging material, and written communications between the sender and recipient, all of which are evidence, fruits, and instrumentalities of a violation of Title 21, United States Code, Sections 841, 844, and 846, and all of which are more particularly described in the application for this warrant which is incorporated herein by reference.

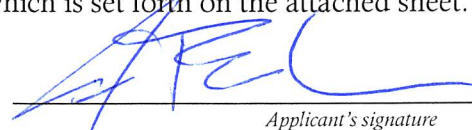
The basis for search under Fed. R. Crim. P. 41(c) is *(check one or more)*:

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of 21 U.S.C. §§ 841, 844, and 846 *[statutory violation(s)]*.

The application is based on these facts:

- ☒ continued on the attached sheet.
- ☐ Delayed notice of ____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

JOSHUA BURCH
United States Postal Inspector
United States Postal Inspection Service

Printed name and title

Sworn to before me and signed in my presence.

Date: March 18, 2019



Judge's signature

City and state: Buffalo, New York

JEREMIAH J. McCARTHY
UNITED STATES MAGISTRATE JUDGE

Printed name and Title

AFFIDAVIT IN SUPPORT OF SEARCH WARRANT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

Your Affiant, JOSHUA BURCH, United States Postal Inspector, being duly sworn,
hereby deposes and states:

1. I am a United States Postal Inspector assigned to the Boston Division (Rochester, NY Field Office) of the United States Postal Inspection Service ("Inspection Service"), and have been so employed since January 2007. Prior to June 2018, I was assigned to the a Prohibited Mail and Narcotics Team in Wilmington, DE, where I was assigned to the DEA Drug Task Force and Diversion Group and Delaware Joint Terrorism Task Force. Prior to January 2012, I was assigned to a Prohibited Mail and Narcotics team in Baltimore, MD, which targeted narcotics and narcotics proceeds sent via the U.S. Mail. I am currently assigned to the Miscellaneous Crimes Team which investigates violations of Federal law, including identity theft, mail theft, credit card fraud, wire fraud, mail fraud and drug trafficking.

2. Your Affiant's education and training includes the following: Upon entering the Inspection Service, I completed twelve weeks of training in Potomac, MD. The training covered various aspects of federal law enforcement, including the investigation of narcotics related offenses. I have received instruction on conducting investigations of, and have in fact

participated in investigations involving, possession with intent to distribute and distribution of controlled dangerous substances. Prior to entering the Inspection Service, I served as a sworn police officer for the Wilmington Police Department for seven years after graduating from the Wilmington Police Academy. After five years of patrol investigation in the Uniformed Division, I was transferred to the Vice and Organized Crime Unit to investigate narcotics and narcotic trafficking. I have received specialized training from the Drug Enforcement Administration in surveillance. I have also attended numerous courses on interviewing and interrogation.

3. During my employment as a Postal Inspector, I have participated in investigations involving the mailing of controlled substances through the U.S. mails. In particular, I have worked on numerous cases involving the mailing of controlled substances in International Mail, Express Mail, and Priority Mail. I have participated in interviewing witnesses and cooperating individuals regarding illegal trafficking of drugs and have read official reports of other officers. I have also been a case agent in charge of investigations involving drug trafficking. As a result of my experience, I am familiar with the common practices utilized by drug traffickers to smuggle drugs and money through commercial mail/parcel carriers.

DESCRIPTION OF ITEM TO BE SEARCHED

4. I make this affidavit in support of an application for a warrant authorizing the search of the following **U.S. Postal Service Express Mail parcel**:

A parcel addressed to “**HC 01 box 3102 Loiza PR Jose L Fuente**” and bears a return address of “**316 Cornwall Ave Buffalo NY 14201**”. The Express Mail parcel bears USPS tracking number **EK361386705US**, and is a white in color USPS Priority Mail cardboard box approximately **12x12x 5.5**”, and weighing approximately **4 lbs.** (hereinafter the “Subject Parcel”). The mailings cost \$60.40 and was expected delivery of March 15, 2019.

5. Since this affidavit is being submitted for the limited purpose of securing a search warrant for the Subject Parcel, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that evidence of a violation of Title 21, United States Code, Sections 841, 844 and 846 will be located within the Subject Parcel.

**SUSPICIOUS CHARACTERISTICS OF MAIL PARCELS
OFTEN FOUND TO CONTAIN CONTRABAND OR NARCOTICS**

6. Based on my training and experience, I am aware that the Postal Service’s Priority Mail Express service was custom-designed to fit the needs of businesses by providing overnight delivery for time-sensitive materials. Priority Mail Express parcels typically used by businesses to send documents often utilize typewritten labels, are sent in pre-printed cardboard mailers, and typically weigh, on average, up to 2 pounds. Corporate charge accounts were also developed by the Postal Service so that businesses would be able to enter their account number directly on the Priority Mail Express label, thus avoiding time-consuming cash payments for each business mailing. Priority Mail Express also comes with a “built-in” unique tracking number that can be used to track the status of each parcel.

In contrast to Priority Mail Express, Priority Mail service developed primarily to allow businesses and the general public a means to expedite delivery of items within a specific timeframe, typically within 2-4 days, when overnight service is not required. Priority Mail also comes with a "USPS Tracking Number" that can be used to track the status of each parcel, in the same way Priority Mail Express parcels are tracked. Priority Mail also offers mailers the ability to send documents (or other items) in a pre-printed cardboard mailer, which typically weighs up to 2 pounds, similar to the option available using a Priority Mail Express pre-printed cardboard mailer.

7. Based on my training and experience, I have learned that narcotics traffickers often utilize Priority Mail Express and Priority Mail for the transportation of controlled substances, or the proceeds from the sale of controlled substances, based upon the fact that Priority Mail Express and Priority Mail can quickly move the items to the delivery destination. Perhaps more importantly, the movement of packages via Priority Mail Express and Priority Mail can also be tracked via telephone and/or the internet based upon the unique tracking number assigned to each specific parcel. This is important to narcotics traffickers because any delay in the delivery of the mail can serve as an indication to the mailer that the items have possibly been intercepted by the U.S. Postal Inspection Service. Additionally, items sent via Priority Mail Express or Priority Mail are considered to be first-class mail, and therefore, cannot be opened without a Federal Search Warrant.

8. I am also aware, based upon my training and experience, that parcels containing contraband often display many similar qualities. For example, these packages may often display some or all of, but not limited to, the following characteristics:

- a. Unlike typical Priority Mail Express or Priority Mail business mailings containing documents, which usually have typed labels, parcels known to have contained controlled substances and/or their proceeds typically bear a handwritten label. Based on my training and experience, and upon the training and experience of fellow Postal Inspectors, I know that drug dealers routinely use handwritten mailing labels when they transport narcotics and/or their proceeds through the mails.
- b. The absence of a corporate account number listed on a label indicates the sender paid for postage using cash or its equivalent. A package containing controlled substances typically does not contain a corporate account number, thereby indicating that the sender of the package paid cash or its equivalent, which is less traceable. Based on my training and experience, and upon the training and experience of fellow Postal Inspectors, senders of parcels containing controlled substances are known to pay for postage using cash in order to remain anonymous and to therefore avoid detection.
- c. The handwritten label will often contain one or more of the following: misspelled words, incomplete addresses, fictitious addresses, or is addressed to and/or from fictitious persons. Based upon your affiant's experience and discussions with other experienced Postal Inspectors, I am aware that individuals who ship and/or receive drugs via the mail often employ fictitious return addresses and/or names not associated with the addresses, in order to avoid detection. This allows them to distance themselves from the contraband should the parcel be intercepted by law enforcement.
- d. Packages containing controlled substances are normally heavier than the typical business mailing (described in paragraph 6 above) containing documents.
- e. Parcels containing controlled substances often have an originating Post Office that is located in a different area, town or city than the return address listed on the parcel. The distance between the two locations can vary. Traveling various distances is often used by mailers of illegal narcotics and their proceeds in order to avoid detection, recognition, and/or being caught on surveillance video.
- f. Parcels containing controlled substances are often heavily taped or glued on the seams of the parcel, and/or the outside of the package is wrapped with a type of paper covering. Heavy taping or gluing of seams, or wrapping the exterior of the package is consistent with parcels known to have contained illegal narcotics.

Such efforts appear to be an attempt to contain any odors which might otherwise emanate from the package. In addition, suspicious parcels sometimes are packaged in decorative boxes to appear as gifts and/or bear markings that include "fragile" or "perishable." Mailers of illegal substances sometimes use such indicators, including purchasing services such as insurance, in order to make the parcels appear more legitimate, mundane and inconspicuous.

- g. Parcels containing controlled substances may be shipped from locations which, based upon previous successful interdictions, are known source locations for the distribution of illegal narcotics.

Parcels found to meet any or all of the characteristics described above are often scrutinized by Inspectors through address verifications and trained narcotic-detecting canine examination. Postal Inspectors have been authorized to seize packages, including Priority Mail Express and Priority Mail, which contain illegal narcotics that were shipped from areas around the country and Puerto Rico.

PROBABLE CAUSE TO SEARCH THE SUBJECT PARCEL

9. On or about March 14, 2019, during a review of outgoing mail, Postal Inspectors were alerted to the Subject Parcel. The parcel shared characteristics known to be associated with packages containing narcotics and proceeds, including handwritten label and taped seams. Prior to this date, I have assisted other members of the Postal Inspection Service with investigations related to narcotics being received from Puerto Rico, by US Mail.

10. On or about March 14, 2019, upon further inspection, a check of USPS records revealed that the sender's listed address, 316 Cornwall Ave is a valid address. No name or phone number is provided. A review of USPS records revealed no name or phone number associated with the address.


11. Upon further inspection, a check of public record databases revealed that the recipient's information appears to be fictitious. Specifically, the listed addressee (Jose L. Fuente) could not be associated with the address HC 01 box 3102 Loiza PR. The address as provided could not be validated as a delivery location.

12. Based on these factors, I decided to submit the parcel to a trained narcotics-detecting canine for examination. On March 14, 2019, I met Niagara Frontier Transit Authority Officer Gould and his K-9, "SABRE," at the US Post Office Buffalo NY located at 1200 William St Buffalo NY, where "SABRE" performed a drug sniff of the Subject Parcel within a secured office space. The handler let the canine search the area freely, off-leash. The canine searched the entire room and office, and, according to Officer Gould, "SABRE" alerted to the Subject Parcel. According to Officer Gould, the dog sniff of the Subject Parcel resulted in a positive alert, indicating that "SABRE" detected the odor of a controlled substance that he has been trained to detect. See, Affidavit of Officer Gould incorporated as part of this affidavit.

CONCLUSION

13. Based upon the foregoing, it is therefore respectfully submitted that there is probable cause to believe that the above-referenced Subject Parcel contains fruits, evidence, and instrumentalities related to narcotics trafficking and distribution in violation of Title 21, United States Code, Sections 841, 844 and 846.

WHEREFORE, it is respectfully requested that a search warrant be issued to search the contents of the Subject Parcel for controlled substances.



JOSHUA BURCH
United States Postal Inspector
United States Postal Inspection Service

Sworn to and subscribed before me

this 18th day of March 2019.



JEREMIAH J. McCARTHY
United States Magistrate Judge

AFFIDAVIT

State of **NEW YORK** } ss
 County of **ERIE**



I, Robert Gould Employed by Niagara Frontier Transportation Authority Buffalo 14209
Name Address City State Zip Code

By this affidavit, make the following statement of fact:

On **March 14, 2019**, at approximately 0800 hours I was requested by Postal Inspector J. Burch of the U. S. Inspection Service to respond to the Buffalo NY Post Office at 1200 William Street Buffalo NY for a narcotics investigation on the following package. At **approximately 0830 hours** I directed K9 "Sabre" to sniff a secured office area of the Post Office, to establish the room was free of any narcotics. At this time, Inspector Burch introduced **USPS tracking number EK361386705US addressed to HC 01 box 3102 Loiza PR 00772 Jose L. Fuente**, with an array of similar parcels known not to contain controlled substances. The parcels are separated throughout the area in different locations, including the restrooms areas attached to the main area, some completely concealed and others are not. When K-9 "Sabre" sniffed the above numbered parcel, "Sabre" alerted to the odor of narcotics with a passive alert (down position) and showed no interest in any of the parcels known not to contain controlled substances. The suspect and non-suspect parcel array is consistent with K9 training and practice for evaluating parcels individually. I was not informed as to which package was the parcel in question.

False statements made herein are punishable as a class A misdemeanor pursuant to section 210.45 of the New York State Penal Law. Affirmed under penalty of perjury.

X  Date 3/14/19
 (affirmed)

Verification by Subscription and Notice
 Under Penal Law Section 210.45

It is a crime, punishable by a class A misdemeanor under the laws of the State of New York, for a person, in and by written instrument, to knowingly make a false statement, or to make a statement which such person does not believe to be true.

Affirmed under penalty of perjury this

14th day of March 2019

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AFFIDAVIT

State of **NEW YORK** } ss
 County of **ERIE**



I, Robert Gould Employed by Niagara Frontier Transportation Authority Buffalo 14209
Name Address City State Zip Code

By this affidavit, make the following statement of fact:

I, Robert P. Gould, am currently employed the Niagara Frontier Transit Authority Police Department and have been so since July 27th, 2015. In November 2016, I was assigned to the Niagara Transit Authority Police Department K9 Unit, and in December 2016 K9 "Sabre" and I became certified as a narcotics K9 Team through the Virginia Police Canine Association facility in Richmond, VA by Master Trainer Delbert Myrick of Spotsylvania County Sheriff's Office, VA after undergoing 300 hours of training. Additionally, K9 "Sabre" and I became certified on January 24th, 2017 after undergoing 80 hours of training by the New York State Division of Criminal Justice Services by examiner Police officer John Daskocz of Cheektowaga Police Department, NY and Trainer Bob Rinfrette of Cattaraugus County, NY. K9 "Sabre" is capable of detecting the odor of marijuana, cocaine, ecstasy, heroin, methamphetamines and their derivatives.

Previous to my employment with the Transit Police, I had served as a narcotics/patrol handler for the Spotsylvania County Sheriff's Office in VA since March 2009 and I served as a narcotics/patrol handler with "Sabre" since 2012. "Sabre" and I serve together annually over 175 work hours. Each month, K9 "Sabre" and I receive 24 hours (8 hours above the minimum required) of training for patrol and narcotics and we re-certify every three years. In our experience, we have successfully found narcotics located in many different locations, to include packages, motor vehicles, buildings, rooms, lockers, boxes, trains, airplanes, luggage, buses, and outdoors (buried in the ground).

Verification by Subscription and Notice
 Under Penal Law Section 210.45

It is a crime, punishable by a class A misdemeanor under the laws of the State of New York, for a person, in and by written instrument, to knowingly make a false statement, or to make a statement which such person does not believe to be true.

Affirmed under penalty of perjury this

RG 14th day of March 2019